

ORIGINAL

Presented to the Court by the foreman of the
Grand Jury in open Court, in the presence of
the Grand Jury and FILED in The U.S.
DISTRICT COURT at Seattle, Washington.

..... June 25 2003
BRUCE RIFKIN, Clerk
By H. Arent-Zachary Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

HOWARD O. HOWELL,

Defendant.

NO. CR03 0281L

INDICTMENT



03-CR-00281-INDI

The Grand Jury charges that:

COUNTS 1-5
(Mail Fraud)

I. INTRODUCTION

A. The Defendant and His Businesses

1. At all relevant times, HOWARD O. HOWELL, had a majority ownership interest in and operated a business known as Touch Menus, Inc. (hereafter "Touch Menus").

2. Touch Menu's business involved the development and sale of certain computer and related hardware and computer software whose principal application was in the restaurant business. Among other things, the products allowed restaurant servers to take and enter orders electronically at tableside. Touch Menu products were also used in the fast food industry.

3. Touch Menu's office and HOWARD O. HOWELL'S residence were located in Bellevue, Washington, within the Western District of Washington.

1 4. HOWARD O. HOWELL also operated as a sole proprietorship a
2 business known as CompuLease. CompuLease entered into leases with restaurants for
3 lease of the products developed and sold by Touch Menus.

4 **B. Howard O. Howell's Relationship With Price and Other Investors**

5 5. Beginning on or about 1988, HOWARD O. HOWELL began a business
6 relationship with Farrel Price, who provided financing for the HOWARD O.
7 HOWELL businesses. The financing took place through a mechanism known as
8 sale/lease-back financing.

9 6. In the typical transaction, Farrel Price or an entity he owned and
10 controlled would purchase from HOWARD O. HOWELL certain Touch Menus
11 products, which Farrel Price or his entity would lease back to HOWARD O.
12 HOWELL, thereby creating a debt owed by HOWARD O. HOWELL to Farrel Price
13 or his entity. HOWARD O. HOWELL, through CompuLease, would in turn lease the
14 products to a restaurant customer, and pledge that lease as collateral for the debt owed
15 by HOWARD O. HOWELL to Farrel Price or his entity.

16 7. After a series of business dealings between HOWARD O. HOWELL and
17 Farrel Price and entities Farrel Price owned and controlled, friends, family and
18 acquaintances of Farrel Price also began investing with HOWARD O. HOWELL by
19 engaging in sale/lease-back transactions in the same manner as Farrel Price.

20 8. The entities and/or accounts owned and controlled by Farrel Price that
21 entered into sale/lease-back transactions with HOWARD O. HOWELL and his
22 businesses included the following (collectively referred to herein as the "Farrel Price
23 Entities"):

24 AFP Enterprises Limited Partnership
25 AFP Family Limited Partnership
26 AFP IRA #1
27 AFP IRA #2
28 AFP Keogh
 Progressive Funding LLC
 Personal Success Systems, Inc.
 Price Carlson Funding LLC (50% with Richard Carlson)
 Price Funding LLC (50% with Bradley Price)

1 9. The family, friends and acquaintances of Farrel Price who entered into
2 sale/lease-back transactions with HOWARD O. HOWELL and his businesses included
3 the following:

4 A. Bradley Price (Farrel Price's son) and related entities:

5 Bradley and Laura Price IRAs
6 Northwest Quality Properties Inc.
7 Price Funding LLC (50% with Farrel Price)

8 B. Glenn Kalmus

9 Kalmus Funding LLC

10 C. LaNae Dance

11 Lincoln Financial Service LLC

12 D. Richard Carlson

13 Price Carlson Funding LLC (50% with Farrel Price)

14 The above identified family, friends and acquaintances of Farrel Price and the entities
15 they controlled will be referred to hereafter collectively as the "Other Investors".

16 10. Although the sale/lease-back financing transactions were legitimate at the
17 outset, by approximately 1995 HOWARD O. HOWELL reverted to lies and deception
18 in the course of his business dealings with Farrel Price, the Farrel Price Entities and the
19 Other Investors.

20 **II. THE SCHEME TO DEFRAUD**

21 11. Beginning at a time unknown but believed to be in or about early 1995,
22 and continuing until on or about January 5, 2001, HOWARD O. HOWELL devised
23 and carried out a scheme and artifice to obtain substantial sums of money from Farrel
24 Price, the Farrel Price Entities, and the Other Investors based on false and fraudulent
25 pretenses, representations and promises.

26 12. The purpose of the scheme to defraud was to continue to obtain money
27 from Farrel Price and his entities and the Other Investors even in the absence of
28 legitimate leases to offer as collateral for the funds advanced by Farrel Price, the Farrel
Price Entities, the Farrel Price Entities and the Other Investors.

1 13. It was part of the scheme to defraud that HOWARD O. HOWELL
2 repeatedly deceived Farrel Price, the Farrel Price Entities and the Other Investors by
3 presenting leases purportedly entered into by restaurant owners, along with supporting
4 credit reports, in order to induce Farrel Price, the Farrel Price Entities and the Other
5 Investors to advance funds for his businesses through sale/lease-back transactions. The
6 leases presented by HOWARD O. HOWELL, however, were false and fraudulent in
7 that the restaurant owners had not entered into leases with HOWARD O. HOWELL or
8 his businesses, and the leases were in fact forged by HOWARD O. HOWELL.

9 14. It was further a part of the scheme to defraud that HOWARD O.
10 HOWELL chose both restaurant names and purported restaurant owners' names from
11 random, oftentimes from the telephone book, and fabricated leases using those names.
12 Neither the restaurants nor the purported owners had entered into a leases with
13 HOWARD O. HOWELL or his businesses.

14 15. It was further a part of the scheme to defraud that HOWARD O.
15 HOWELL would forge the signatures on the fabricated leases.

16 16. It was further a part of the scheme to defraud that HOWARD O.
17 HOWELL would obtain credit reports for the purported restaurant owners under false
18 pretenses from a credit reporting agency.

19 17. It was further a part of the scheme to defraud that HOWARD O.
20 HOWELL would periodically provide Farrel Price with aging reports, purportedly
21 showing the leases for which there were past due balances, when in reality many leases
22 listed on the aging reports had been fabricated and no sums were owed from the
23 purported restaurants or their owners.

24 18. It was further a part of the scheme to defraud that with respect to a request
25 for new funds from Farrel Price, a Farrel Price Entity and/or other Investor,
26 HOWARD O. HOWELL would present: a.) a forged lease, representing it to be a
27 genuine lease; and b.) the credit report for the purported restaurant owner, representing
28 it to be evidence of the owner's good credit.

1 19. It was further a part of the scheme to defraud that HOWARD O.
2 HOWELL would pay sums owed on fabricated leases with funds advanced by Farrel
3 Price, a Farrel Price Entity or other Investor with respect to subsequent fabricated
4 leases.

5 20. It was further a part of the scheme to defraud that over the course of
6 approximately five years, HOWARD O. HOWELL presented hundreds of fabricated
7 leases, often accompanied by a credit report on the purported lessee, and by such
8 conduct obtained substantial sums of money from Farrel Price, Farrel Price Entities and
9 Other Investors through false and fraudulent pretenses, representations and promises.

10 21. At the time of the discovery of the fraud, the principal amount left owing
11 to Farrel Price, the Farrel Price Entities and the Other Investors on the transactions
12 involving fabricated leases, after application of payments pursuant to an agreed upon
13 interest rate and agreed upon amortization schedules, exceeded ten million dollars
14 (\$10,000,000).

15 **III. EXECUTION OF THE SCHEME TO DEFRAUD**

16 22. On or about the dates set forth below, for the purpose of executing the
17 scheme and artifice to defraud and attempting to do so, and for the purpose of obtaining
18 money by means of false and fraudulent material pretenses, representations and
19 promises, HOWARD O. HOWELL knowingly caused to be sent from Henderson,
20 Nevada, for delivery to him at 13609 NE 26th Place, Bellevue, Washington, within the
21 Western District of Washington, by commercial interstate carrier, specifically Federal
22 Express (Fed Ex), the following checks in connection with transactions with the listed
23 investor in which he had fabricated and forged one or more leases, each such shipment
24 by interstate carrier constituting a separate count of this Indictment:

Count	Investor	Description of Check Sent	Approx. Date Sent by Interstate Carrier
1	Lincoln Financial Services LLC	Check in the sum of \$60,000 payable to Howard Howell	4/18/2000
2	Lincoln Financial Services LLC	Check in the sum of \$66,000 payable to Howard Howell	6/12/2000
3	Lincoln Financial Services LLC	Check in the sum of \$64,000 payable to Howard Howell	9/13/2000
4	Lincoln Financial Services LLC	Check in the sum of \$65,000 payable to Howard Howell	10/17/2000
5	Lincoln Financial Services LLC	Check in the sum of \$35,000 payable to Howard Howell DBA	11/9/2000

All in violation of Title 18, United States Code, Section 1341.

**COUNTS 6-11
(Wire Fraud)**

23. The Grand Jury realleges and incorporates by reference the allegations contained in paragraphs 1-21 as constituting the scheme to defraud.

24. On or about dates set forth below, for the purpose of executing the scheme and artifice to defraud and attempting to do so, and for the purpose of obtaining money by means of false and fraudulent material pretenses, representations and promises, HOWARD O. HOWELL knowingly caused transmission of writings, signs, signals, pictures and/or sounds by wire communication in interstate commerce, specifically by using a computer system in the Western District of Washington to access electronic data in a computer system in the state of Georgia, and obtain from it credit reports on the individuals identified by their initials below, which individuals he had falsely and fraudulently represented to the listed investor as legitimate parties to leases for restaurant equipment, each such wire communication constituting a separate count of this Indictment:

Count	Investor	Approximate Date Credit Report Obtained	Name on Credit Report
6	A. Farrel Price Family Limited Partnership	9/12/98	H.Y.
7	AFP Enterprises Limited Partnership	1/14/99	D.M.
8	AFP Enterprises Limited Partnership	2/23/99	S.P.
9	A. Farrel Price Family Trust	9/19/99	A.B.
10	A. Farrel Price Family Trust	9/19/00	J.A.
11	Progressive Funding L.P.	5/6/00	K.G.

All in violation of Title 18, United States Code, Section 1343.

COUNTS 12 - 17
(Obtaining Information on Consumers Under False Pretenses)

25. The Grand Jury realleges and incorporates by reference the allegations contained in paragraphs 1-21.

26. At all times relevant to this Indictment, Equifax was a consumer reporting agency that did business nationwide.

27. On hundreds of separate occasions, beginning on a date unknown, but believed to be by at least 1997 and continuing through approximately December, 2000, HOWARD O. HOWELL knowingly and willfully obtained and caused to be obtained credit reports on consumers from a credit reporting agency under false pretenses, that is HOWARD O. HOWELL obtained the credit reports when he had no legitimate business transactions with those consumers but instead obtained the credit reports as part of his scheme to defraud Farrel Price and the Other Investors as described elsewhere in this Indictment.

28. On or about the dates listed below, within the Western District of Washington, HOWARD O. HOWELL, did knowingly and willfully obtain and cause to be obtained information on the identified consumers from a consumer reporting agency, specifically Equifax, under false pretenses by falsely representing to Equifax that the information was being obtained in connection with legitimate business transactions, each such access of a credit report constituting a separate count of this Indictment:

Count	Approximate Date Credit Report Obtained	Name on Credit Report
12	9/12/98	H.Y.
13	1/14/99	D.M.
14	2/23/99	S.P.
15	9/19/99	A.B.
16	9/19/00	J.A.
17	5/6/00	K.G.

In violation of Title 15, United States Code, Section 1681q.

A TRUE BILL:

DATED: 25 June 2003


FOREPERSON


JOHN MCKAY

United States Attorney


FLOYD G. SHORT

Assistant United States Attorney


SUSAN LOITZ

Assistant United States Attorney